

HOUSE BILL 3163

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 1, Chapter 3; Title 29; Title 39, Chapter 11; Title 50; Title 56, Title 68 and Chapter ____ of the Public Acts of 2010 (Ex. Sess.)(Senate Bill 1 / House Bill 7 of the First Extraordinary Session), relative to workers' compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter ____ of the Public Acts of 2010 (Ex. Sess.)(Senate Bill 1 / House Bill 7 of the First Extraordinary Session) is amended by deleting SECTION 2 of the bill/public chapter.

SECTION 2. Chapter ____ of the Public Acts of 2010 (Ex. Sess.)(Senate Bill 1 / House Bill 7 of the First Extraordinary Session) is amended by deleting the language "March 28, 2011" in the first sentence of SECTION 3 of the bill/public chapter and substituting instead the language "July 1, 2010".

SECTION 3. Chapter ____ of the Public Acts of 2010 (Ex Sess.)(Senate Bill 1 / House Bill 7 of the First Extraordinary Session) is amended by deleting the second sentence of SECTION 3 of the bill/public chapter.

SECTION 4. Tennessee Code Annotated, Section 50-6-113(f)(1), is amended by deleting the present language in its entirety and substituting instead the following:

(A) Whenever any person or entity is engaged in the construction industry, such person or entity shall be required to carry workers' compensation insurance on any employee, regardless of the number of employees, as well as any subcontractor not otherwise covered by a workers' compensation policy. Subject to subdivisions (f)(1)(B)-(I), sole proprietors, partners, officers of corporations and members of limited liability

companies engaged in the construction industry shall be required to carry workers' compensation on themselves.

(B) Sole proprietors, partners, officers of corporations and members of limited liability companies engaged in the construction industry as "contractors" defined in § 62-6-102 may exempt themselves from coverage under this chapter by complying with this subdivision (f)(1); provided, that such persons:

(i) Own at least thirty percent (30%) of such contractor; and

(ii) Except as provided in subdivision (C), only serve in a supervisory role while attending the worksite without engaging in any of the sub-classifications for the building construction categories listed in Rule 0680-01-.16 promulgated by the Tennessee board for licensing contractors.

(C) Sole proprietors, partners, officers of corporations and members of limited liability companies engaged in the construction industry as "residential contractors" defined by § 62-6-102 or as "small commercial" as defined pursuant to Rule 0680-01-.16 promulgated by the Tennessee board for licensing contractors, may exempt themselves from coverage under this chapter by complying with this subdivision (f)(1), including meeting the requirements of subdivision (B).

(D) Sole proprietors, partners, officers of corporations and members of limited liability companies who elect to exempt themselves from coverage under this chapter pursuant to subdivisions (f)(1)(B) or (f)(1)(C) shall:

(i) File a request for election to be exempt with the department, which shall list the name and title of the individual electing to be exempt, as well as the name and federal tax identification number of the contractor; provided, that the department is also authorized to obtain licenses or certifications issued pursuant to title 62, relevant documentation filed with the Internal Revenue Service,

relevant documentation concerning the Tennessee Employment Security Law compiled in title 50, Chapter 7, relevant documentation filed with the secretary of state, and any licenses or certifications issued by any political subdivision of the state;

(ii) File a request for renewal of election to be exempt, if applicable, at any time before the initial election expires or is otherwise revoked; and

(iii) Remit a filing fee of fifty dollars (\$50.00) with each request for election to be exempt or renewal of election to be exempt.

(E) If a sole proprietor, partner, officer of a corporation or member of a limited liability company files a request for election to be exempt and complies with this subdivision (f)(1), then the department shall issue a certificate of election to be exempt, which shall become on the date of issuance noted thereon and remain valid for two (2) years after such effective date. The department shall revoke a certificate of election to be exempt or deny a request for election to be exempt upon a determination that such person does not meet the requirements for exemption or that the information contained in the request is invalid.

(F) At any time, a sole proprietor, partner, officer of a corporation or a member of a limited liability company who has elected to become exempt may request a revocation of the election to be exempt. Such revocation shall become effective thirty (30) calendar days after receipt by the department.

(G) If a sole proprietor, partner, officer of a corporation or member of a limited liability company has elected to become exempt pursuant to this subdivision (f)(1), then such person shall not recover compensation under this chapter for themselves from the property owner or any other contractor.

(H) This subsection (f) shall not apply to any person building a dwelling or other

structure, or performing maintenance, repairs, or making additions to structures, on the person's own property for the person's own use and for which the person receives no compensation.

(l) There can be no more than three (3) independent contractors, with no employees, that have exempted themselves from obtaining workers' compensation in accordance with this section on any one (1) project.

SECTION 5. Tennessee Code Annotated, Section 62-6-102 is amended by adding the following language at the end of subdivision (7):

For purposes of the Workers' Compensation Law compiled in title 50, Chapter 6, a "residential contractor" does not include any person building a dwelling or other structure, or performing maintenance, repairs, or making additions to structures, on the person's own property for the person's own use and for which the person receives no compensation.

SECTION 6. This act shall take effect on July 1, 2010, the public welfare requiring it.